

OCT 16 1979

MICHAEL RODAK, JR., CLERK

In the
Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-82

JOSE M. ALONSO GARCIA, ET AL.,
PETITIONERS,

v.

ADALBERT FRIESECKE AND BRITISH MARINE
MUTUAL INSURANCE ASSOCIATION ET AL.,
RESPONDENTS.

v.

SEA LAND SERVICE, INC., ET AL.,
RESPONDENTS.

PETITIONERS' SUPPLEMENTAL BRIEF

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SEA LAND SERVICE, INC., ET AL.,
RESPONDENTS.

FRANCISCO GARCIA SERRANO &
JOSE M. ALONSO GARCIA, etc.,
PETITIONERS,

v.

GULF ATLANTIC TRANSPORT CORP. &
CONTINENTAL INS. CO.,
RESPONDENTS.

v.

ENTERPRISES SHIPPING CO., INC.,
RESPONDENT.

GREGORIO TORRES MATOS,
PETITIONER,

v.

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RESPONDENT,

v.

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PETITIONERS,

v.

AMERICAN EXPORT ISBRANDSTEN LINES,
RESPONDENT,

v.

SAN JUAN MERCANTILE CORP., et al.,
RESPONDENT.

RAFAEL A. CLAUDIO TORRES,
PETITIONER,

v.

SEA LAND SERVICES, INC.,
RESPONDENT.

JOSE A. MELENDEZ FLORES,
PETITIONER,

v.

CORPORACION RAYMOND, S. A., et al.,
RESPONDENTS.

PETITIONERS' SUPPLEMENTAL BRIEF

Petitioners file this supplemental brief pursuant to Rule 24(4) of the Revised Rules of this Court.

Reasons for Filing Supplemental Brief

The brief in opposition to the petition for a writ of certiorari includes statements not in accord with decisions of this Court which are omitted from the brief in opposition. Petitioners did not anticipate inaccurate or inadequate presentation of propositions of law at the time of filing their petition.

Argument

I. EXCEPTIONS TO THE DOCTRINE OF UNIFORMITY.

The brief in opposition cites four cases to show areas of lack of uniformity in the maritime law. Brief in opposition, p. 7, n. 2. *The Tungus v. Skovgaard*, 358 U.S. 588 (1959) and *Gillespie v. United States Steel Corp.*, 379 U.S. 148 (1964) were both explained and limited by *Moragne v. States Marine Lines, Inc.*, 398 U.S. 375 (1970), to which respondents do not refer. In *Moragne* this Court pointed out the desirability of uniformity both to those who own ships and those who work on them precisely in connection with liability for injuries to the latter.

Respondents also cite *McAllister v. Magnolia Petroleum Co.*, 357 U.S. 221 (1958) in the same context. This Court there said that it was unnecessary to decide the broad question of whether a state court was free to apply its own statutes of limitations or whether it was bound to

apply the admiralty doctrine of laches. 357 U.S. at 224. The reference to the question in *Moragne* indicates approval by this Court of applying the accepted maritime law doctrine of laches. 398 U.S. at 406.

II. INAPPLICABILITY OF THE FELA TO PUERTO RICO.

Respondents call attention to the inapplicability of the "FELA" to Puerto Rico. Brief in opposition, p. 12, n. 3. The history of that legislation in relation to Puerto Rico actually undercuts respondents' contention.

An almost identical footnote was included in respondents' brief in the District Court. In reply petitioners there pointed out that the Safety Appliance Act of March 2, 1903, 45 U.S.C. §§ 8-10, had previously been held to apply to Puerto Rico, as in the States, in spite of no express application by Congress. *American R. Co. v. Birch*, 224 U.S. 547 (1912); *American R. Co. v. Didricksen*, 227 U.S. 145 (1913), *Camunas v. Porto Rico Ry. Light & Power Co.*, 272 Fed. 924 (1st Cir. 1921), appeal dismissed 260 U.S. 700, cited by respondents, resulted from the enactment of § 38 of the Organic Act of 1917, 48 U.S.C. § 751, which specifically exempted Puerto Rico from the application of the federal act.

III. THE RIGHTS OF RESIDENTS OF PUERTO RICO.

Respondents rely on *Downes v. Bidwell*, 182 U.S. 244 (1901) and *Dorr v. United States*, 195 U.S. 138 (1904); with the statement that "[i]n the same line of thought are *Balzac v. People of Puerto Rico*, 258 U.S. 298 (1922) and *Torres v. Commonwealth of Puerto Rico*, ___ U.S. ___, 99 S. Ct. 2425 (1979)." Brief in opposition, p. 31. No reference is made to *Reid v. Covert*, 354 U.S. 1 (1956), cited in the concurring opinion to *Torres v. Commonwealth*.

The majority opinion in *Torres* points to the equivalent personal rights afforded to the residents of Puerto Rico from 1917 to 1952 with respect to the Fourth Amendment. The concurring opinion, 99 S. Ct. at 2432, quotes language from *Reid v. Covert*, which clearly puts the *Downes*, *Dorr*, and *Balzac* cases in a totally different line of thought.

Conclusion

It is respectfully prayed that this supplemental brief be considered with the petition for a writ of certiorari.

Respectfully submitted,

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